

JOINT CASE MANAGEMENT STATEMENT AND PROPOSED ORDER

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

U.S. SMALL BUSINESS
ADMINISTRATION, as Receiver for PROSPERO
VENTURES, L.P.,

Plaintiff(s),

v.

HIGH GROWTH MANAGEMENT, LTD.,

Defendant(s).

NO. C 07-03735 JL

**CASE MANAGEMENT CONFERENCE
STATEMENT AND PROPOSED ORDER**

The party to the above-entitled action jointly submit this Case Management Statement and Proposed Order and request the Court to adopt it as its Case Management Order in this case.

DESCRIPTION OF THE CASE

1. A brief description of the events underlying the action:

On April 1, 1999, PROSPERO VENTURES, L.P. ("PROSPERO") and HIGH GROWTH MANAGEMENT, LTD., ("HIGH GROWTH") entered into a written Partnership Agreement which was modified on or about September 10, 1999. Pursuant to the Agreement, HIGH GROWTH agreed to contribute \$124,752 to the capital of the Partnership. HIGH GROWTH subsequently made a payment of \$62,376.

On or about November 10, 2004, PLAINTIFF notified DEFENDANT that PROSPERO had been ordered into receivership, that the SBA had been appointed Receiver of PROSPERO, and that the Receiver had taken over the control of the assets and operations of PROSPERO. On or about May 9, 2005, PLAINTIFF demanded payment in the amount of \$62,376 by June 17, 2005. HIGH GROWTH did not make any payment in response to the demand.

PLAINTIFF contends that HIGH GROWTH has breached the Partnership Agreement by failing to pay the second half of the capital commitment; therefore, HIGH GROWTH is indebted to PLAINTIFF in the sum of \$62,376, plus interest.

2. The principal factual issues which the parties dispute:

On October 18, 2007, Plaintiff took HIGH GROWTH's default. By defaulting, HIGH GROWTH has admitted all material factual allegations.

3. The principal legal issues which the parties dispute:

On October 18, 2007, Plaintiff took HIGH GROWTH's default. By defaulting, HIGH GROWTH has admitted all material legal allegations and has waived all legal defenses.

4. The other factual issues which remain unresolved for the reason stated below and how the parties propose to resolve those issues:

There are no other factual issues of which Plaintiff is aware.

5. The parties which have not been served and the reasons:

All parties have been served. No appearance has been made by HIGH GROWTH.

6. The additional parties which the below-specified parties intend to join and the intended time frame for such joinder:

None.

7. The following parties consent to assignment of this case to a United States Magistrate Judge for [court or jury] trial:

Plaintiff consents to assignment of the case to a United States Magistrate Judge for jury trial.

ALTERNATIVE DISPUTE RESOLUTION

8. [Please indicate the appropriate response(s).]

☐ The case was automatically assigned to Nonbinding Arbitration at filing and will be ready for the hearing by (date)_____.

The parties have filed a Stipulation and Proposed Order Selecting an ADR process (specify process):

☐ The parties filed a Notice of Need for ADR Phone Conference and the phone conference was held on or is scheduled for _____.

☐ The parties have not filed a Stipulation and Proposed Order Selecting an ADR process and the ADR process that the parties jointly request [or a party separately requests] is _____.

9. Please indicate any other information regarding ADR process or deadline.

DISCLOSURES

10. The parties certify that they have made the following disclosures *[list disclosures of persons, documents, damage computations and insurance agreements]*:

Because no appearance has been made by HIGH GROWTH, no disclosures have been made.

DISCOVERY

11. The parties previously agreed to the following discovery plan:

No discovery is needed as no appearance by HIGH GROWTH has been made.

TRIAL SCHEDULE

12. The parties previously agreed upon a trial date as follows:

PLAINTIFF intends on filing its application for court judgment within the next two weeks.

COLEMAN & HOROWITT, LLP.

Dated: November , 2007

DARRYL J. HOROWITT

Attorneys for Plaintiff, U.S. SMALL BUSINESS

ADMINISTRATION, as Receiver for PROSPERO VENTURES, L.P.

CASE MANAGEMENT ORDER

The Case Management Statement and Proposed Order is hereby adopted by the Court as the Case Management Order for the case and the parties are ordered to comply with this Order. In addition the Court orders as follows:

Dated: _____

UNITED STATES DISTRICT/MAGISTRATE JUDGE

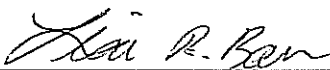
PROOF OF SERVICE

I declare that I am a citizen of the United States of America and a resident of the County of Fresno. I am over the age of eighteen (18) years and not a party to the within action. My business address is 499 West Shaw, Suite 116, Fresno, California 93704.

On November 21, 2007, I served the foregoing document(s) described as **CASE MANAGEMENT CONFERENCE STATEMENT AND PROPOSED ORDER** on the interested parties, addressed as stated on the attached service list.

- ☒ BY MAIL - by placing ☒ a true and correct copy ☐ the original thereof enclosed in a sealed envelope with postage thereon fully prepaid in the firm's outgoing mail. I am "readily familiar" with the firm's practice of collecting and processing correspondence for mailing. It is deposited with United States Postal Service on that same day in the ordinary course of business.
- ☒ BY CALIFORNIA OVERNIGHT - by placing ☒ a true and correct copy ☐ the original thereof enclosed in a sealed envelope for delivery via California Overnight next day delivery to the addressee noted above.
- ☐ BY HAND DELIVERY - by delivering by hand and leaving a true copy with the person and at the address shown above.
- ☐ BY FACSIMILE TRANSMISSION - by causing a true facsimile thereof to be electronically transmitted to the parties, by using their facsimile number indicated on the attached service list.
- ☐ STATE: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- ☒ FEDERAL: I declare that I am employed in the office of a member of the bar of this court at whose direction service was made.

Executed on November 21, 2007, at Fresno, California.



Lisa R. Barr

Service List

Jerald P. Shaevitz
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Los Altos Hills, CA 94024

Agent for Defendants,
Luzon Investments, Ltd. and
High Growth Management, Ltd.

Via California Overnight:

Chambers Copies

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